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Attorneys for Defendants  
VERITY, INC., and THE VERITY INC.  
CHANGE IN CONTROL AND  
SEVERANCE BENEFIT PLAN

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

HUGO SLUIMER

Plaintiff,

vs.

VERITY, INC., a corporation, and THE  
VERITY INC. CHANGE IN CONTROL AND  
SEVERANCE BENEFIT PLAN,

Defendants.

CASE NO. CV 08-1220 SI

**DEFENDANTS' OBJECTIONS TO  
DECLARATION OF WILLIAM REILLY**

Date: July 18, 2008  
Time: 9:00 a.m.  
Ct rm: 10, 19th Floor

Defendants hereby object to the declaration of William Reilly as follows:

1. “Attached hereto as Exhibit C is a true and correct copy of Mr. Sluimer’s initial filing in the Dutch Court translated to English.” (Reilly Decl., p. 2, lines 16-17.)

Improper authentication. Fed. R. Evid. 901. Lacks personal knowledge. Fed. R. Evid. 602. Relevance. Fed. R. Evid. 402; *Abatie v. Alta Health & Life Ins. Co.*, 458 F.3d 955, 963 (9<sup>th</sup> Cir. 2006) (“Many circuits limit a district court to the administrative record when the court is reviewing a case on the merits for an abuse of discretion; consideration of new evidence is permitted only in conjunction with de novo review of a denial of benefits.”); *Jebian v. Hewlett-Packard Co. Employee Benefits Org. Income Prot. Plan*, 349 F.3d 1098, 1110 (9th Cir.2003); *Urbania v. Cent. States, Se. & Sw. Areas Pension Fund*, 421 F.3d 580, 586 (7th Cir.2005) (noting that “[d]eferential review of an administrative decision means review on the administrative record” (internal quotation marks omitted)); *Zervos v. Verizon N.Y., Inc.*, 252 F.3d 163, 173 (2d Cir.2001) (noting that when review is for abuse of discretion, the record consists of the administrative record); *Elliott v. Sara Lee Corp.*, 190 F.3d 601, 608 & n. 6 (4th Cir.1999) (abuse of discretion review must be based on the evidence before the administrator); *Buckley v. Metro. Life*, 115

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F.3d 936, 941 & n. 2 (11th Cir.1997) (per curiam) (holding that extra-record evidence, presented to the district court on review for abuse of discretion, was irrelevant).

2. “Attached hereto as Exhibit D is a true and correct copy of the defendants’ initial filing in the Dutch Court translated to English.”  
(Reilly Decl., p. 2, lines 19-20.)

Improper authentication. Fed. R. Evid. 901.  
Lacks personal knowledge. Fed. R. Evid. 602.  
Relevance. Fed. R. Evid. 402; *Abatie v. Alta Health & Life Ins. Co.*, 458 F.3d 955, 963 (9<sup>th</sup> Cir. 2006) (“Many circuits limit a district court to the administrative record when the court is reviewing a case on the merits for an abuse of discretion; consideration of new evidence is permitted only in conjunction with de novo review of a denial of benefits.”); *Jebian v. Hewlett-Packard Co. Employee Benefits Org. Income Prot. Plan*, 349 F.3d 1098, 1110 (9th Cir.2003); *Urbania v. Cent. States, Se. & Sw. Areas Pension Fund*, 421 F.3d 580, 586 (7th Cir.2005) (noting that “[d]eferential review of an administrative decision means review on the administrative record” (internal quotation marks omitted)); *Zervos v. Verizon N.Y., Inc.*, 252 F.3d 163, 173 (2d Cir.2001) (noting that when review is for abuse of discretion, the record consists of the administrative record); *Elliott v. Sara Lee Corp.*, 190 F.3d 601, 608 & n. 6 (4th Cir.1999) (abuse of discretion review must be

1		based on the evidence before the
2		administrator); <i>Buckley v. Metro. Life</i> , 115
3		F.3d 936, 941 & n. 2 (11th Cir.1997) (per
4		curiam) (holding that extra-record evidence,
5		presented to the district court on review for
6		abuse of discretion, was irrelevant).
7	3. “Attached hereto as Exhibit E is a true and	Improper authentication. Fed. R. Evid. 901.
8	correct copy of Mr. Sluimer’s reply filing in	Lacks personal knowledge. Fed. R. Evid. 602.
9	the Dutch Court translated to English.”	Relevance. Fed. R. Evid. 402; <i>Abatie v. Alta</i>
10	(Reilly Decl., p. 2, lines 22-23.)	<i>Health &amp; Life Ins. Co.</i> , 458 F.3d 955, 963 (9 <sup>th</sup>
11		Cir. 2006) (“Many circuits limit a district
12		court to the administrative record when the
13		court is reviewing a case on the merits for an
14		abuse of discretion; consideration of new
15		evidence is permitted only in conjunction with
16		de novo review of a denial of benefits.”);
17		<i>Jebian v. Hewlett-Packard Co. Employee</i>
18		<i>Benefits Org. Income Prot. Plan</i> , 349 F.3d
19		1098, 1110 (9th Cir.2003); <i>Urbania v. Cent.</i>
20		<i>States, Se. &amp; Sw. Areas Pension Fund</i> , 421
21		F.3d 580, 586 (7th Cir.2005) (noting that
22		“[d]eferential review of an administrative
23		decision means review on the administrative
24		record” (internal quotation marks omitted));
25		<i>Zervos v. Verizon N.Y., Inc.</i> , 252 F.3d 163,
26		173 (2d Cir.2001) (noting that when review is
27		for abuse of discretion, the record consists of
28		the administrative record); <i>Elliott v. Sara Lee</i>

1		<i>Corp.</i> , 190 F.3d 601, 608 & n. 6 (4th
2		Cir.1999) (abuse of discretion review must be
3		based on the evidence before the
4		administrator); <i>Buckley v. Metro. Life</i> , 115
5		F.3d 936, 941 & n. 2 (11th Cir.1997) (per
6		curiam) (holding that extra-record evidence,
7		presented to the district court on review for
8		abuse of discretion, was irrelevant).
9	4. “Attached hereto as Exhibit F is a true and	Improper authentication. Fed. R. Evid. 901.
10	correct copy of defendants’ reply filing in the	Lacks personal knowledge. Fed. R. Evid. 602.
11	Dutch Court translated to English.”	Relevance. Fed. R. Evid. 402; <i>Abatie v. Alta</i>
12	(Reilly Decl., p. 2, lines 25-26.)	<i>Health &amp; Life Ins. Co.</i> , 458 F.3d 955, 963 (9 <sup>th</sup>
13		Cir. 2006) (“Many circuits limit a district
14		court to the administrative record when the
15		court is reviewing a case on the merits for an
16		abuse of discretion; consideration of new
17		evidence is permitted only in conjunction with
18		de novo review of a denial of benefits.”);
19		<i>Jebian v. Hewlett-Packard Co. Employee</i>
20		<i>Benefits Org. Income Prot. Plan</i> , 349 F.3d
21		1098, 1110 (9th Cir.2003); <i>Urbania v. Cent.</i>
22		<i>States, Se. &amp; Sw. Areas Pension Fund</i> , 421
23		F.3d 580, 586 (7th Cir.2005) (noting that
24		“[d]eferential review of an administrative
25		decision means review on the administrative
26		record” (internal quotation marks omitted));
27		<i>Zervos v. Verizon N.Y., Inc.</i> , 252 F.3d 163,
28		173 (2d Cir.2001) (noting that when review is

1		for abuse of discretion, the record consists of
2		the administrative record); <i>Elliott v. Sara Lee</i>
3		<i>Corp.</i> , 190 F.3d 601, 608 & n. 6 (4th
4		Cir.1999) (abuse of discretion review must be
5		based on the evidence before the
6		administrator); <i>Buckley v. Metro. Life</i> , 115
7		F.3d 936, 941 & n. 2 (11th Cir.1997) (per
8		curiam) (holding that extra-record evidence,
9		presented to the district court on review for
10		abuse of discretion, was irrelevant).
11	5. “Attached hereto as Exhibit G is a true	Improper authentication. Fed. R. Evid. 901.
12	and correct copy of the Clerk’s handwritten	Lacks personal knowledge. Fed. R. Evid. 602.
13	notes from the May 30, 2006 hearing in the	Relevance. Fed. R. Evid. 402; <i>Abatie v. Alta</i>
14	Dutch Court translated to English.”	<i>Health &amp; Life Ins. Co.</i> , 458 F.3d 955, 963 (9 <sup>th</sup>
15	(Reilly Decl., p. 3, lines 1-2.)	Cir. 2006) (“Many circuits limit a district
16		court to the administrative record when the
17		court is reviewing a case on the merits for an
18		abuse of discretion; consideration of new
19		evidence is permitted only in conjunction with
20		de novo review of a denial of benefits.”);
21		<i>Jebian v. Hewlett-Packard Co. Employee</i>
22		<i>Benefits Org. Income Prot. Plan</i> , 349 F.3d
23		1098, 1110 (9th Cir.2003); <i>Urbana v. Cent.</i>
24		<i>States, Se. &amp; Sw. Areas Pension Fund</i> , 421
25		F.3d 580, 586 (7th Cir.2005) (noting that
26		“[d]eferential review of an administrative
27		decision means review on the administrative
28		record” (internal quotation marks omitted));

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*Zervos v. Verizon N.Y., Inc.*, 252 F.3d 163, 173 (2d Cir.2001) (noting that when review is for abuse of discretion, the record consists of the administrative record); *Elliott v. Sara Lee Corp.*, 190 F.3d 601, 608 & n. 6 (4th Cir.1999) (abuse of discretion review must be based on the evidence before the administrator); *Buckley v. Metro. Life*, 115 F.3d 936, 941 & n. 2 (11th Cir.1997) (per curiam) (holding that extra-record evidence, presented to the district court on review for abuse of discretion, was irrelevant).

6. “Attached hereto as Exhibit H is a true and correct copy of the Order issued by the Dutch Court on June 7, 2006 translated to English.”  
(Van Der Pijl Decl., p. ii, lines 21-22.)

Improper authentication. Fed. R. Evid. 901. Lacks personal knowledge. Fed. R. Evid. 602. Relevance. Fed. R. Evid. 402; *Abatie v. Alta Health & Life Ins. Co.*, 458 F.3d 955, 963 (9<sup>th</sup> Cir. 2006) (“Many circuits limit a district court to the administrative record when the court is reviewing a case on the merits for an abuse of discretion; consideration of new evidence is permitted only in conjunction with de novo review of a denial of benefits.”); *Jebian v. Hewlett-Packard Co. Employee Benefits Org. Income Prot. Plan*, 349 F.3d 1098, 1110 (9th Cir.2003); *Urbania v. Cent. States, Se. & Sw. Areas Pension Fund*, 421 F.3d 580, 586 (7th Cir.2005) (noting that “[d]eferential review of an administrative

1 decision means review on the administrative  
 2 record” (internal quotation marks omitted));  
 3 *Zervos v. Verizon N.Y., Inc.*, 252 F.3d 163,  
 4 173 (2d Cir.2001) (noting that when review is  
 5 for abuse of discretion, the record consists of  
 6 the administrative record); *Elliott v. Sara Lee*  
 7 *Corp.*, 190 F.3d 601, 608 & n. 6 (4th  
 8 Cir.1999) (abuse of discretion review must be  
 9 based on the evidence before the  
 10 administrator); *Buckley v. Metro. Life*, 115  
 11 F.3d 936, 941 & n. 2 (11th Cir.1997) (per  
 12 curiam) (holding that extra-record evidence,  
 13 presented to the district court on review for  
 14 abuse of discretion, was irrelevant).

15 Dated: June 27, 2008

Respectfully submitted,

16 DOLL AMIR & ELEY

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 19 By /s/ Gregory L. Doll.  
 20 Gregory L. Doll  
 21 Attorneys for Defendants VERITY, INC., and THE  
 22 VERITY INC. CHANGE IN CONTROL AND  
 23 SEVERANCE E BENEFIT PLAN  
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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1888 Century Park East, Suite 1106, Los Angeles, CA 90067.

On June 27, 2008, I served the foregoing document(s) described as **DEFENDANTS' OBJECTIONS TO DECLARATION OF WILLIAM REILLY** on the parties in this action by serving:

Joseph M. Rimac, Esq.  
William Reilly, Esq.  
RIMAC & MARTIN  
1051 Divisadero Street  
San Francisco, CA 94115  
F: (415) 561-8430

Cliff Palefsky, Esq.  
Keith Ehrman, Esq.  
McGuinn, Hillsman & Palesfsky  
535 Pacific Avenue  
San Francisco, CA 94133  
F: (415) 403-0202

☐ **By Envelope** - by placing ☐ the original ☐ a true copy thereof enclosed in sealed envelopes addressed as above and delivering such envelopes:

☐ **By Mail:** As follows: I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ **By Electronic Filing:** Based upon my training and experience with electronic filing in the federal courts, it is my understanding that a copy of this Document, upon its submission to the Court, will be electronically served on the addressees.

Executed on June 27, 2008, at Los Angeles, California.

☐ **STATE** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ **FEDERAL** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

/s/ Susan Reimers  
Susan Reimers